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10/564,414	01/12/2006	Noriyuki Sakoh	283098US6PCT	8040
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
SHU, HO T				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/564,414

Applicant(s)

SAKOH ET AL.

Examiner

HO SHIU

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-18 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 12 January 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-850)
Paper No(s)/Mail Date 11 May 2006, 12 January 2006
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-18 are pending in this application.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 17 and 18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
4. Claim 17 recites "a content acquisition program". A program is a software per se, and is not one of the statutory subject matter. See MPEP § 2106.01.
5. Claim 18 recites "program for performing". A program is a software per se, and is not one of the statutory subject matter. See MPEP § 2106.01.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 6, 9, 14, 17, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention.

8. Claims 1, 6, 9, 14, 17, and 18 recite "undertaking some of functions of the content receiving side" as related to receiving a proxy device for receiving does not define what type of functions it is taking and renders the claims indefinite. For examination purposes, undertaking some of functions of the content receiving-side is interpreted as being able to take load off of the content receiving-side.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. **Claims 1-3, 5-11, 13-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Sato (US Patent # 7,299,271 B2, hereinafter Sato).**

11. With respect to claim 1, Sato discloses content acquisition method characterized by comprising: a file request information sending step of, in response to a request for content data (col. 2, lines 51-54), sending file request information that requests an acquire/use file storing acquire/use information including content data attribute

information, to an acquire/use information providing device (col. 2, lines 62-33, col. 3, lines 1-8), an information receiving step of, in response to said sent content data request, receiving via a proxy device for undertaking some of functions of the content receiving-side (col. 6, lines 17-23), said acquire/use file that stores content identification information and said attribute information of said content sent by said acquire/use information providing device data in a portion where such information is not removed when the acquire/use file passes through said proxy device (col. 6, lines 24-36, col. 2, lines 25-28, A proxy server that passes all requests and replies unmodified is called a gateway or tunneling proxy. Residential gateways are also known as routers.), a content request information sending step of sending content request information requesting said content data to a content providing device according to said acquire/use information contained in said acquire/use file (col. 6, lines 50-55), and a content receiving step of receiving said content data sent by said content providing device in response to the transmission of said content request information (col. 7, lines 4-10).

12. With respect to claim 2, Sato discloses said attribute information corresponding to said content data comprises data size information of said content data (col. 3, lines 29-32).

13. With respect to claim 3, Sato discloses a comparison step of comparing said data size information of said content data contained in said acquire/use file with the free space of a recording media to be used to record said content data upon reception (col.

4, lines 15-20), and a notification step of, based on the results of said comparison by said comparison step, notifying a lack of said free space in said recording media for storing the content data if said free space in said recording media is insufficient (col. 3, lines 37-41).

14. With respect to claim 5, Sato discloses said information receiving step receives said acquire/use file sent in compliance with HTTP (Hyper Text Transfer Protocol) from said acquire/use information providing device, said acquire/use file storing said content identification information and said attribute information of said content data in its main section (col. 3, lines 29-36).

15. With respect to claim 6, Sato discloses an acquire/use information providing method characterized by comprising: a request information receiving step of receiving file request information for requesting an acquire/use file that stores acquire/use information containing attribute information of content data, sent by a content acquisition device in response to a request for the content data by a content data acquisition device (col. 3, lines 22-27); and an information sending step of, in response to the received file request information, sending via a proxy device for undertaking some of the functions of the content receiving-side to said content acquisition device (col. 6, lines 17-23), said acquire/use file that stores content data content identification information and attribute information of the content data in a portion where such information is not removed when the acquire/use file passes through said proxy device (col. 6, lines 24-36, col. 2, lines

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25-28, A proxy server that passes all requests and replies unmodified is called a gateway or tunneling proxy. Residential gateways are also known as routers.).

16. With respect to claim 7, Sato discloses said attribute information corresponding to said content comprises data size information of said content data (col. 3, lines 29-32).

17. With respect to claim 8, Sato discloses said information sending step sends said acquire/use file in compliance with HTTP (Hyper Text Transfer Protocol), said acquire/use file storing said content identification information and said data size information of said content data in its main section (col. 3, lines 29-36).

18. With respect to claim 9, Sato discloses a content acquisition device characterized by comprising: a file request information sending means of, in response to a request for content data (col. 2, lines 51-54), sending file request information that requests an acquire/use file storing acquire/use information including content data attribute information, to an acquire/use information providing device (col. 2, lines 62-66, col. 3, lines 1-8), an information receiving means of, in response to said sent content data request, receiving via a proxy device for undertaking some of functions of the content receiving-side (col. 6, lines 17-23), said acquire/use file that stores content identification information and said attribute information of said content sent by said acquire/use information providing device data in a portion where such information is not removed when the acquire/use file passes through said proxy device (col. 6, lines 24-36, col. 2,

lines 25-28, A proxy server that passes all requests and replies unmodified is called a gateway or tunneling proxy. Residential gateways are also known as routers.), a content request information sending means of sending content request information requesting said content data to a content providing device according to said acquire/use information contained in said acquire/use file (col. 6, lines 50-55), and a content receiving means of receiving said content data sent by said content providing device in response to the transmission of said content request information (col. 7, lines 4-10).

19. With respect to claim 10, Sato discloses said attribute information corresponding to said content data comprises data size information of said content data (col. 3, lines 29-32).

20. With respect to claim 11, Sato discloses a comparison means of comparing said data size information of said content data contained in said acquire/use file with the free space of a recording media to be used to record said content data upon reception (col. 4, lines 15-20), and a notification means of, based on the results of said comparison by said comparison means, notifying a lack of said free space in said recording media for storing the content data if said free space in said recording media is insufficient (col. 3, lines 37-41).

21. With respect to claim 13, Sato discloses said information receiving means receives said acquire/use file sent in compliance with HTTP (Hyper Text Transfer

Protocol) from said acquire/use information providing device, said acquire/use file storing said content identification information and said attribute information of said content data in its main section (col. 3, lines 29-36).

22. With respect to claim 14, Sato discloses an acquire/use information providing device characterized by comprising: a request information receiving means of receiving file request information for requesting an acquire/use file that stores acquire/use information containing attribute information of content data, sent by a content acquisition device in response to a request for the content data by a content data acquisition device (col. 3, lines 22-27); and an information sending means of, in response to the received file request information, sending via a proxy device for undertaking some of the functions of the content receiving-side to said content acquisition device (col. 6, lines 17-23), said acquire/use file that stores content data content identification information and attribute information of the content data in a portion where such information is not removed when the acquire/use file passes through said proxy device (col. 6, lines 24-36, col. 2, lines 25-28, A proxy server that passes all requests and replies unmodified is called a gateway or tunneling proxy. Residential gateways are also known as routers.).

23. With respect to claim 15, Sato discloses said attribute information corresponding to said content comprises data size information of said content data (col. 3, lines 29-32).

24. With respect to claim 16, Sato discloses said information sending means sends said acquire/use file in compliance with HTTP (Hyper Text Transfer Protocol), said acquire/use file storing said content identification information and said data size information of said content data in its main section (col. 3, lines 29-36).

25. With respect to claim 17, Sato discloses a content acquisition program for performing: a file request information sending step of, in response to a request for content data (col. 2, lines 51-54), sending file request information that requests an acquire/use file storing acquire/use information including content data attribute information, to an acquire/use information providing device (col. 2, lines 62-66, col. 3, lines 1-8), an information receiving step of, in response to said sent content data request, receiving via a proxy device for undertaking some of functions of the content receiving-side, said acquire/use file that stores content identification information and said attribute information of said content sent by said acquire/use information providing device data in a portion where such information is not removed when the acquire/use file passes through said proxy device (col. 6, lines 24-36), a content request information sending step of sending content request information requesting said content data to a content providing device according to said acquire/use information contained in said acquire/use file (col. 6, lines 50-55), and a content receiving step of receiving said content data sent by said content providing device in response to the transmission of said content request information (col. 7, lines 4-10).

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26. With respect to claim 18, Sato discloses an acquire/use information providing program for performing: a request information receiving step of receiving file request information for requesting an acquire/use file that stores acquire/use information containing attribute information of content data, sent by a content acquisition device in response to a request for the content data by a content data acquisition device (col. 3, lines 22-27); and an information sending step of, in response to the received file request information, sending via a proxy device for undertaking some of the functions of the content receiving-side (col. 6, lines 17-23) to said content acquisition device, said acquire/use file that stores content data content identification information and attribute information of the content data in a portion where such information is not removed when the acquire/use file passes through said proxy device (col. 6, lines 24-36).

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. **Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato as applied to claims 1, 2, 9, and 10 in view of Dansie et al. (US Patent # 7,308,487 B1, hereinafter Dansie).**

29. With respect to claim 4, Sato does not disclose a determination step of, after receiving said content data, comparing the data size of received said content data with said data size information of said content data contained in said acquire/use file, and determining whether or not said content data is successfully received.

In the same field of endeavor, Dansie discloses a determination step of, after receiving said content data, comparing the data size of received said content data with said data size information of said content data contained in said acquire/use file, and determining whether or not said content data is successfully received (col. 14, lines 67, col. 15, lines 1-8).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Sato with the teachings of Dansie in order to recognize that the file was interrupted or not complete while being transferred.

30. With respect to claim 12, Sato does not disclose a determination means of, after receiving said content data, comparing the data size of received said content data with said data size information of said content data contained in said acquire/use file, and determining whether or not said content data is successfully received..

In the same field of endeavor, Dansie discloses a determination means of, after receiving said content data, comparing the data size of received said content data with said data size information of said content data contained in said acquire/use file, and

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determining whether or not said content data is successfully received (col. 14, lines 67, col. 15, lines 1-8).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Sato with the teachings of Dansie in order to recognize that the file was interrupted or not complete while being transferred.

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HO SHIU whose telephone number is (571)270-3810. The examiner can normally be reached on Mon-Thur (7:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nabil El-Hady can be reached on 571-272-3963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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HTS

03/26/2008

/Nabil El-Hady, Ph.D, M.B.A./

Supervisory Patent Examiner, Art Unit 4152